

# **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

PATRICE SMITH,

Plaintiff,

v.

COASTAL PRODUCE  
DISTRIBUTORS, INC., *et al.*,

Defendants.

Case No. 4:19-CV-13095

Hon. Stephanie Dawkins Davis  
United States District Judge

Magistrate Judge Anthony P. Patti

---

**DECLARATION OF CHERIE WEICHEL**

---

1. I have personal knowledge of the facts set forth in this Declaration and I am both competent and available to testify in this matter if called upon.

2. I have been the owner and operator of the Coastal Produce Distributors, Inc., S&W Transports, LLC, and Coastal Carriers, LLC since the businesses were started.

3. Defendant Coastal Produce Distributors, Inc. ("Coastal") is a produce distributing company operated out of Detroit.

4. Defendant S&W Transports, LLC ("S&W") owns the trucks used in distribution by Coastal.

5. Defendant Coastal Carriers, LLC ("Carriers") employs the drivers used in the distribution by Coastal.

6. Since 1998, Coastal has delivered nationally sourced and local produce and dairy throughout Michigan and Northern Ohio.

7. Except during summer months, 95% of the product distributed by Coastal is procured by Coastal from out of state suppliers since most fruit and produce does not grow all year in Michigan.

8. During the summer months, Coastal is able to procure a greater percentage of its products from Michigan growers, but it still relies on out of state suppliers.

9. The vast majority of product Coastal sells is from suppliers located in California and the west coast of the United States.

10. When Coastal orders product from its suppliers, it purchases the products specifically for delivery to Coastal's customers within the States of Michigan and Ohio.

11. All product that is purchased by Coastal from out of state is purchased in reliance upon projections to fulfill the needs of Coastal's customers that were based on historical ordering practices and orders that have been placed with Coastal.

12. Coastal arranges with third party shippers to deliver the product from the out-of-state suppliers to Coastal's warehouse in Detroit.

13. Since Coastal is shipping produce across the country, it makes every effort to order the exact amount of produce that will be needed to fulfill our

customers' needs. If we order too much produce, it will spoil. If we order too little produce, our customers will find other distributors to work with.

14. Coastal has over 900 customers, which are mainly businesses and institutions, including restaurants, schools, universities, senior living centers, and hospitals.

15. The products Coastal procures from out of state are delivered to Coastal's warehouse in Detroit, where they are stored until repackaged for delivery to Coastal's customers using S&W's trucks and Carrier's drivers.

16. Coastal does not process nor alter the food in its warehouse before delivering to its customers.

17. S&W has a fleet of 22 trucks used to deliver Coastal's products.

18. All of S&W's trucks have gross vehicle weight greater than 10,001 pounds.

19. Delivery drivers employed by Carriers take the product from the Detroit warehouse to Coastal's customers.

20. The majority of Coastal's routes for delivery to customers are located within Michigan.

21. Defendants do make deliveries of product from its Michigan warehouse to Ohio three to four days every week.

22. Defendants have been making deliveries to Ohio for approximately six years.

23. Due to the nature of our business, dealing with fresh fruit and produce, we require that all drivers be willing and able to drive all routes at all times as they may be called on to deliver to Ohio any day. We cannot skip a delivery route because one driver is off of work.

24. Defendants are registered as an interstate motor carrier with the United States Department of Transportation (“DOT”).

25. The DOT registration number for S&W Transport is 1718278.

26. All of Defendants’ drivers are required to comply with DOT safety regulations.

27. We purposely include in our Driver Handbook and Safety Manual (bates labeled CC000025–62; hereinafter “Handbook”) that all drivers are subject to DOT safety regulations and must comply with DOT safety regulations.

28. The majority of our employment policies for drivers are related to complying with DOT safety regulations.

29. We require all drivers to fill out driver vehicle inspection reports (“DVIR”) as required by the DOT.



30. We require all drivers to fill out DOT log sheets in the situations where they are required for the DOT and to comply with all DOT hours of service requirements.

31. Defendants are required to comply with DOT drug testing for drivers and report that information to the DOT yearly. Attached here as Appendix A is the copy of the report Carriers had to maintain regarding DOT drug testing for Plaintiff when he was initially hired.


32. Defendants are also required to have our drivers undergo DOT medical examinations. Attached here as Appendix B are copies of the medical examination certificates we were required to maintain for the DOT regarding Plaintiff.

33. Last year, in October 2019, Defendants were audited by the DOT Federal Motor Carrier Safety Administration Michigan Division. We had to supply the DOT documentation regarding driver safety at that time. Attached to this Declaration as Appendix C is a copy of the initial email I received from the DOT notifying us of the audit and requesting documentation.

34. The DOT can inspect Defendants motor vehicles at any time. The DOT has conducted random safety inspections of our trucks from time to time.

35. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 16, 2020

  
Cherie Weichel

# **APPENDIX A**

eScreen

PO Box 25902

Overland Park, KS 66225-5902

(800) 881-0722

## Custody Control Form

21842346

Lab ID: QUEST

Lab Panel ID: 27800N

Lab Acct #: REDACTED 42

Panels: CMC - 10 panel standard (27800N)

Lab Address: 10101 Renner Blvd.

Lenexa, KS 66219



eScreen

Company Account: REDACTED 6636

STEP 1. S&amp;W Transport Formerly Coastal Produce

 201 Green St  
 Detroit MI 48209  
 313-849-3304  
 Todd Stadwick

Medical Review Officer

 Dr. Stephen Kracht  
 Dr. Stephen Kracht  
 7500 W. 110th St, Ste 400A  
 Overland Park KS 66225

Step 2. TO BE COMPLETED BY COLLECTOR

Specimen temperature for urine specimens must be read within 4 minutes of collection.

Specimen temperature within range: Yes

Verified Donor ID ☒

Step 3. TO BE COMPLETED BY COLLECTOR AND DONOR

Collector affixes bottle seal on specimen.

Type:

☒ Urine ☐ Oral ☐ Blood ☐ Hair ☐ Breath ☐ Split Specimen

STEP 4. Reason For Test:

☒ Pre-employment ☐ Return To Duty ☐ Promotion ☐ Periodic Medical ☐ Random ☐ Diversion  
☐ Post Accident ☐ Follow Up ☐ Transfer ☐ Reasonable suspicion/cause ☐ Other

Step 5. TO BE VERIFIED BY DONOR

 REDACTED 2206  
 Donor SSN

 REDACTED 1970  
 Date of Birth

 313-623-6308  
 Daytime Phone Number

Evening Phone Number

 REDACTED 822  
 Drivers License

I certify that I provided my specimen to the collector, that I have not adulterated it in any manner, that the specimen bottle used was sealed with a tamper-evident seal in my presence, and that the information provided on this form and on the label affixed to the specimen bottle is correct. I hereby authorize the collector and testing service or laboratory (specifically including, but not limited to, eScreen, Inc.) to release the results of the test to the Company/Employer or their Designee.

 Patrice Smith  
 Donor's Name

 3/26/2014 02:08 PM CST  
 Date & Time

Signature of Donor

Step 6. TO BE VERIFIED BY COLLECTOR

Name of Collection Site, Address, City, ST, Zip

 Concentra Medical Center - I-96  
 28196 SCHOOLCRAFT RD  
 LIVONIA MI 48150

 Collection Site ID  
 2712

I certify that the specimen identified on this form is the specimen presented to me by the donor providing the certification on Step 5 of this custody control form, that it bears the same specimen identification number as that set forth above, and that it has been collected, labeled and sealed as in accordance with applicable requirements.

 Lila Acosta  
 Collector's Name

 3/26/2014 02:08 PM CST  
 Date & Time

Signature of Collector

Remarks:

Step 7. LAB RECEIVED

Seal Intact: ☐ Yes ☐ No

Shipper:

Specimen Bottle(s) Released To

Date &amp; Time

Signature

ORIGINAL MUST ACCOMPANY SPECIMEN TO LABORATORY





## Specimen Result Certificate

ID Number: REDACTED 346

Report printed on 3/31/2014 8:36:56 AM

Page 1 of 1

Attention:  
Todd Stadwick  
S&W Transport Formerly Coastal Produce  
201 Green St  
Detroit, MI 48209

Verification Date 03/27/2014 01:42 PM

Medical Review Officer:  
Dr. Stephen Kracht  
7500 W. 110th St, Ste 400A PO Box 25903  
Overland Park, KS 66225  
888-382-2281

Collection Site:  
2712 - Concentra Medical Center - I-96

Donor Name: Smith, Patrice  
Date Of Test: 03/26/2014

Donor SSN: XXX-XX-2206  
Donor ID: REDACTED 322  
Reason for Test: Pre-employment

ID Number: REDACTED 346  
Laboratory: Quest Diagnostics

Regulation: Non-DOT  
Specimen Type: Urine

Drugs Tested:

# REDACTED

## TO BE COMPLETED BY THE MEDICAL REVIEW OFFICER

I have reviewed the laboratory results for the specimen identified by this form in accordance with applicable Federal requirements. My determination/verification is:

# REDACTED

Dr. Stephen Kracht

3/27/2014 1:42:49 PM

(PRINT) Medical Review Officer's Name

Signature of Medical Review Officer

Date (Mo./Day/Yr.)

# **APPENDIX B**

MEDICAL EXAMINER'S CERTIFICATE				
I certify that I have examined <u>Patrice N. Smith</u> in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when:				
<input checked="" type="checkbox"/> wearing corrective lenses <input checked="" type="checkbox"/> wearing hearing aid <input checked="" type="checkbox"/> accompanied by a <u>waiver/exemption</u>		<input type="checkbox"/> driving within an exempt intracity zone (49 CFR 391.62) <input type="checkbox"/> accompanied by a Skill Performance Evaluation Certificate (SPE) <input type="checkbox"/> qualified by operation of 49 CFR 391.64		
The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.				
SIGNATURE OF MEDICAL EXAMINER <u>R. Dobrzynski</u>		TELEPHONE <u>248 478 1616</u>	DATE <u>2/2/2015</u>	
MEDICAL EXAMINER'S NAME (PRINT) RONALD DOBRZYNSKI, PAO		<input type="checkbox"/> MD <input type="checkbox"/> DO <input checked="" type="checkbox"/> Physician Assistant <input type="checkbox"/> Chiropractor <input type="checkbox"/> Advanced Practice Nurse <input type="checkbox"/> Other Practitioner		
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. <u>58010070407 MI</u>		NATIONAL REGISTRY NO. <u>9721548881</u>		
SIGNATURE OF DRIVER <u>Patrice N. Smith</u>		INTRASTATE ONLY <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CDL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DRIVER'S LICENSE NO. <b>REDACTED</b> STATE <u>MI</u>
ADDRESS OF DRIVER <u>22600 middlebelt Rd., unit C-1 Farmington Hills, mi</u>				
MEDICAL CERTIFICATION EXPIRATION DATE <u>FEBRUARY 02, 2017</u> <u>48336</u>				

CMC/DOTCARD

**CONCENTRA Medical Centers**  
**MEDICAL EXAMINER'S CERTIFICATE**

I certify that I have examined Patrice Smith in accordance with FMCSR 49 CFR 391.41-391.49 and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☐ Wearing Corrective Lenses ☐ Driving within an exempt intracity zone (49 CFR 391.62)  
☐ Wearing Hearing Aid ☐ Accompanied by a Skill Performance Evaluation Certificate  
☐ Accompanied by a \_\_\_\_\_ waiver/exemption ☐ Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete exam form with any attachment embodies my findings completely and correctly and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER <i>[Signature]</i>		TELEPHONE NO. 734-513-2000	DATE 12/12/12
MEDICAL EXAMINER'S NAME (print) Sally Franwell		<input type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> Chiropractor <input type="checkbox"/> Advanced Practice Nurse <input checked="" type="checkbox"/> Physician's Assistant	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE 5601004813 / MI			
SIGNATURE OF DRIVER <i>Patrice Smith</i>		DRIVER'S LICENSE NO. REDACTED	STATE MI
DRIVER'S ADDRESS (Street, City, State; Zip Code) 15363 Hartwell St., Detroit, MI 48227		MED. CERT. EXPIRATION DATE 12/12/14	

NOTE: Driver MUST carry a copy of this certificate when operating a commercial motor vehicle in accordance with 49 CFR 391.41 (a)

CMCDDTCARD



# **APPENDIX C**



## U.S. DOT/FMCSA Safety Investigation Request



no-reply@dot.gov

To: cweichel@coastalproduce.net

Dear Motor Carrier:

FMCSA will soon investigate your operations to determine the level of safety within your transportation operation.

Please read the attached letter carefully. To start this investigation, please complete the following steps.

- 1) Visit the Safety Measurement System (SMS) at <https://ai.fmcsa.dot.gov/SMS>.
- 2) Log into your company's profile to see your Carrier Dashboard where you can find your investigation record. If you do not have or know your U.S. DOT Personal Identification Number (PIN), please visit <https://ai.fmcsa.dot.gov/SMS>.
- 3) Upload the requested documentation, including any attached forms, by due date. The "Document Upload Instructions for Carriers" PDF attached provides helpful screenshots and step-by-step instructions

You can find more information and track your investigation progress online via SMS as FMCSA reviews and approve

Thank you for your cooperation and commitment to improving your company's safety performance and compliance

Cynthia Hedman  
Safety Investigator

**5 Files** 967.6kB



InitialContactLetter\_7629.pdf  
113kB



Carrier-Document-Upload-Instructions.pdf  
484kB



DriverList.xlsx  
54kB



EquipmentList2.xlsx  
59kB



InvestigationQuestionnaire.pdf  
258kB